

## **ATTACHMENT 5**

**Civil Docket**

71st Judicial District

Case No. 08-0023  
HARRISON CountyFebruary 4th, 2008  
9:22amCLARA PATTON, IND. AND ON BEHALF OF  
THE ESTATE OF LAURA PATTON, DECEASED,  
KIMBERLY GRAHAM, ET AL vs. INVACARE  
CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., KIDDE FYRNETICS, INC.,  
ET ALFiled : 01/07/2008  
Status: Filed  
Type: OTHER CIVIL CASESJudge  
BONNIE L. HAGANCourt Reporter  
Lynn Skinner

Date		Volume	Page
<b>Events &amp; Orders of the Court</b>			
01/07/08	PLAINTIFF'S ORIGINAL PETITION PLNTFS ORIG PTN		
01/08/08	CITATION BY CERTIFIED MAIL Issued -Defendant. SPIRIT HOMES INC.		
01/10/08	CITATION BY CERTIFIED MAIL Served - KIDDE FYRNETICS, INC. - Answer due: 02/04/08		
01/10/08	CITATION BY CERTIFIED MAIL Served - SPIRIT HOMES, INC. - Answer due: 02/04/08		
01/10/08	CITATION BY CERTIFIED MAIL Served - CAVALIER ENTERPRISES, INC. - Answer due: 02/04/08		
01/10/08	CITATION BY CERTIFIED MAIL Served - CAVALIER HOME BUILDERS, L.L.C. - Answer due: 02/04/08		
01/11/08	CITATION BY CERTIFIED MAIL CAVALIER HOME BUILDERS SERVED 01/10/08		
01/11/08	PLEA IN INTERVENTION R. GRAHAM FILING INTERVENTION FOR DESTINY GRAHAM (DECEASED)		
01/11/08	CITATION BY CERTIFIED MAIL Served - GRIFFIN, PATRICIA - Answer due: 02/04/08		
01/14/08	CITATION BY CERTIFIED MAIL Served - PRAXAIR HEALTHCARE SERVICES, INCORPORATED		
01/15/08	CITATION BY CERTIFIED MAIL PATRICIA GRIFFIN SERVED 01/11/08		
01/15/08	CITATION BY CERTIFIED MAIL CAVALIER ENTERPRISERS, INC. SERVED 01/10/08		
01/15/08	CITATION BY CERTIFIED MAIL SPIRIT HOMES, INC. SERVED 01/10/08		
01/15/08	CITATION BY CERTIFIED MAIL KIDDE FRYNETICS, INC. SERVED 01/10/08		
01/15/08	CITATION BY CERTIFIED MAIL CAVALIER HOME BUILDERS SERVED 01/10/08		
01/16/08	Jury Trial Requested		
01/17/08	CITATION BY CERTIFIED MAIL		

**Civil Docket**

71st Judicial District

Case No. 08-0023  
HARRISON CountyFebruary 4th, 2008  
9:22am

Date		Volume	Page
<b>Events &amp; Orders of the Court (cont.)</b>			
01/18/08	PRAXAIR HEALTHCARE SERVICES SERVED 01/14/08 OTHER RE: RECEIPT OF CERTIFICATE OF SERVICE		
01/18/08	LETTER RE: CT CORP NOT REGISTERED AGENT		
01/18/08	LETTER CT CORP NOT AGENT FOR SPIRIT HOMES		
01/23/08	LETTER TO SIR/MADAM FROM MARIE-DOMINIQUE SHEETER CT CORP. SYSTEM IS NOT REGISTERED AGENT FOR CAVALIER ENTERPRISES, INC.		
01/25/08	LETTER CT CORP RE KIDDE FRYNETICS NOT IN RECORDS		
01/25/08	LETTER CT CORP NOT AGENT FOR SPIRIT HOMES		
01/28/08	ORIGINAL ANSWER DFNDT INVACARE CORPORATION'S ORIG ANS TO PLNTFS ORIG PTN (MACDONALD DEVIN - DAVID M. MACDONALD)		
01/30/08	RESPONDENT'S ORIGINAL ANSWER DEF PRAXAIR HEALTHCARE FILING ANSWER		
01/30/08	Answer Filed -Defendant, PRAXAIR HEALTHCARE SERVICES, INCORPORATED		
01/30/08	CITATION BY CERTIFIED MAIL - Returned Served -Defendant, SPIRIT HOMES, INC.		

A TRUE COPY  
of the Original hereof, I certify  
*Sherry Griffith*  
District Court Clerk  
Harrison County, Texas

By

*[Signature]*  
Deputy Clerk

CAUSE NO. 08-1023

IN THE DISTRICT COURT OF

SHERRY GRIFFIN

BY:  
DEPUTY

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES §  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR §  
AND DEBBIE ROCKWELL, IND. AND ON §  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

VS. §

INVACARE CORPORATION, PRAXAIR §  
HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, INC., §  
SPIRIT HOMES, INC., A DIVISION OF §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/ACAVALIER HOMES OF §  
ALABAMA, INC. AND §  
PATRICIA B. GRIFFIN D/B/A §  
DISCOUNT HOMES, INC. §

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARA PATTON, IND. AND ON BEHALF OF THE ESTATE OF LAURA PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED, LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

FRIEND FOR JOHN "C J." BROWN, A MINOR, JAMES DAVISON, JR. AND DEBBIE ROCKWELL, IND AND ON BEHALF OF THE ESTATE OF TESHAREME DAVISON, DECEASED, complaining of INVACARE CORPORATION, PRAXAIR HEALTHCARE SERVICES, INC, KIDDE FRYNETICS, INC , SPIRIT HOMES, INC , SPIRIT HOMES, INC , A DIVISION OF CAVALIER ENTERPRISES, INC , CAVALIER ENTERPRISES, INC , CAVALIER HOME BUILDERS, L L C F/K/A CAVALIER HOMES OF ALABAMA, INC , AND PATRICIA B GRIFFIN D/B/A DISCOUNT HOMES, INC , and for cause of action would respectfully show the following:

*1 0      Discovery Control Level*

*1 1      Discovery is intended to be conducted under Level 3, TRCP 190.4. It is anticipated that the parties will submit a discovery control plan in the form of an agreed order. Should the parties be unable to agree, plaintiffs move the court to adopt a discovery control plan tailored to the circumstances of this case.*

*2 0      Plaintiffs*

*2 1      The plaintiffs to this suit and their respective capacities and residences are as follows:*

*2 2      Clara Patton, Individually and on behalf of the Estate of Laura Patton, deceased, who resides in Harrison County, Texas;*

*2 3      Kimberly Graham, Individually and on behalf of the Estates of Destiny Graham, deceased, and Da;Marcus King, deceased, who resides in Harrison County, Texas;*

*2 4      Laumarko King, Individually and on behalf of the Estate of Da'Marcus King, deceased, who resides in Morris County, Texas;*

*2 5      Deshawn Brown and Cassandra Brown, Individually, and on behalf of the Estate of Nathaniel Brown, deceased, and as Next Friends for John "C J." Brown, a Minor;*

who reside in Gregg County, Texas;

2 6 James Davison, Jr and Debbie Rockwell, Individually and on behalf of the Estate of  
Teshareme Davison, deceased Debbie Rockwell is a resident of Gregg County,  
Texas and James Davison is a resident of the State of Florida.

3 0 ***Defendants***

3 1 The defendants in this suit and their residences are as follows:

3 2 Invacare Corporation, a foreign corporation, organized and existing pursuant to the  
laws of a state other than Texas and whose principle place of business is a state other  
than the state of Texas. This corporation may be served by certified mail, return  
receipt requested to its attorney: David Macdonald, Macdonald, Devin, 3800  
Renaissance Tower, 1201 Elm St , Dallas, Texas, 75270.

3 3 Praxair Healthcare Services, Incorporated, a foreign corporation, organized and  
existing pursuant to the laws of a state other than Texas, and whose principle place  
of business is a state other than the State of Texas. Service on this corporation may  
be had by serving its registered agent by certified mail, return receipt requested, to  
wit: Corporation Service Company d/b/a CSC-Lawyers Inc , 701 Brazos Street, Suite  
1050, Austin, Texas, 78701.

3 4 Kidde Fynetics, Inc., A UTC Fire & Security Company, a foreign corporation,  
organized and existing pursuant to the laws of a state other than Texas, and whose  
principle place of business is a state other than the State of Texas. Service on this  
corporation may be had by serving its registered agent by certified mail, return receipt  
requested, to wit: CT Corporation System, 350 North St. Paul Street, Dallas, Texas  
75201

3.5

Spirit Homes, Inc., a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas. Service on this corporation may be had by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service because Defendant, who has engaged in business in Texas, does not have its registered agent on file. The Texas Secretary of State may serve the Defendant by serving: The Corporation Company, 425 West Capital Avenue, Suite 1700, Little Rock, Arkansas 72201.

3.6

Spirit Homes, Inc., a division of Cavalier Enterprises, Inc., a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas. Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N. St. Paul Street, Dallas, Texas.

3.7

Cavalier Enterprises, Inc., a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas. Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N. St. Paul Street, Dallas, Texas.

3.8

Cavalier Home Builders, L.L.C. f/k/a Cavalier Homes of Alabama, Inc., a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principle place of business is a state other than the State of Texas. Service on this corporation may be had by serving its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 St. Paul Street, Dallas, Texas.

75201.

3 9 Patricia Griffin d/b/a Discount Homes, an individual who engaged in business in Texas, the lawsuit arises out of Defendants' business in Texas. Service of said Defendant may be had by serving Defendant by certified mail, return receipt requested at her mailing address: P O Box 114, Magnolia, Texas 77353-0114

#### 4.0 **Venue**

4 1 Venue of this matter is proper in Harrison County, Texas, pursuant to §15.002(a)(1) in that all or a substantial part of the events or omissions giving rise to the claims set forth herein occurred in Harrison County, Texas.

#### 5.0 **Facts**

5 1 The facts giving rise to this suit are not in dispute. On January 9, 2006, a fire broke out and consumed a mobile home located on Farm to Market Road 450 North, south of Ore City and north of Harleton. The mobile home, a 1999 Spirit Saratoga, was owned by Clara Patton and Kimberly Graham. At the time of the fire, the mobile home was occupied by Clara Patton, her mother, Laura Patton, Clara Patton's daughter, Kimberly Graham and her two (2) children, Destiny Graham and Da'Marcus King, and their friends, Nathaniel Brown, John "C J" Brown and Teshareme Davison.

5 2 The fire caused the deaths of Laura Patton, age 75, Destiny Graham, age 11, Da'Marcus King, age 4, Nathaniel Brown, age 5, Teshareme Davison, age 12

5 3 Injured in the fire were Clara Patton, Kimberly Graham and John "C J" Brown

5.4 Located in the mobile home on the night of the fire was an oxygen concentrator designed, manufactured, and marketed by Invacare Corporation. This machine serves



to filter nitrogen from ambient room air and provide nearly pure oxygen to persons who are oxygen dependent

5 6 Praxaire Healthcare Services, Inc., placed the oxygen concentrator in the mobile home and agreed to provide instruction in the safe use thereof and further agreed to provide all necessary inspections and maintenance of the concentrator to insure that it remained in good working order

5 7 Kidde Fynetics, Inc., A UTC Fire & Security Company, designed, manufactured and marketed the two ionization- type smoke detectors in the mobile home

5 8 Spirit Homes, Inc., Spirit Homes, Inc., a division of Cavalier Enterprises, Inc., Cavalier Enterprises, Inc., Cavalier Enterprises of Alabama, Inc and/or Discount Homes, Inc., designed, manufactured and marketed the 1999 Spirit Saratoga mobile home in which the fire occurred

6 0 *Plaintiffs' Allegations and Theories of Recovery*

6 1 Plaintiffs allege that a defect existed in the concentrator which caused it to overheat and which rendered it unreasonably dangerous as designed, manufactured and marketed and which was the producing cause of the deaths of those who perished in the fire and the injuries to those who survived.

6 2 Plaintiffs allege that overheating occurred, in part, due to the failure of Praxair Healthcare Services, Incorporated, to maintain the concentrator. Additionally, plaintiffs allege that Praxair Healthcare Services failed to instruct Laura Patton in the safe use of the concentrator and to warn of the dangers inherent in the use of the concentrator. These acts of negligence were a proximate cause of the deaths of the those who perished in the fire and injuries to those who survived.

6 3 Plaintiffs allege that the design, manufacture and marketing of the smoke alarms by Kidde Fyrenetics, Inc , A UTC Fire & Security Company, was defective such that they failed to provide a timely warning to the occupants of the mobile home. The delay in discovering the fire allowed smoke to fill the home such that when the occupants did finally discover the fire, the degree of smoke then existing caused great confusion, difficulty breathing and prevented those who perished from escaping, ultimately leading to their deaths. Thus, the defective smoke detector was a producing cause of the injuries and deaths herein.

6 5 Pleading further, plaintiffs allege that a defect in the electrical wiring of the mobile home existed which was a producing cause of the fire and the deaths of those who perished and the injuries to those who survived. Defendants negligently wired the smoke detectors located within the mobile home and failed to include adequate smoke detectors. Such negligence was a proximate cause of the basis of this suit. This defect in the wiring rendered it unreasonably dangerous as designed, manufactured and marketed. The wiring was designed, manufactured and marketed by Spirit Homes, Inc., Spirit Homes, Inc., a division of Cavalier Enterprises, Inc., Cavalier Enterprises, Inc., Cavalier Enterprises of Alabama, Inc. and/or Discount Homes.

7 0 ***Plaintiffs' Damages***

7.1 ***Clara Patton***

7 2 Clara Patton hereby sues the defendants at common law for all damages to which she is entitled for her injuries. Additionally, as the sole surviving daughter of Laura Patton, deceased, and sole heir, she sues the defendants for the wrongful death of her

mother for all damages to which she is entitled pursuant to TCPRC 71.001 et seq. In addition, Clara Patton sues on behalf of the estate of Laura Patton, deceased for all damages to which it is entitled. In this regard, no administration was necessary on the estate of Laura Patton, deceased.

7.2 ***Kimberly Graham***

7.3 Kimberly Graham sues the defendants at common law for all damages to which she is entitled for her injuries. Additionally, Kimberly Graham is a surviving parent of her two children, Destiny Graham and Da'Marcus King, and sues the defendants for the wrongful death of her two children for all damages to which she is entitled pursuant to TCPRC 71.001, et seq. In addition, Kimberly Graham sues on behalf of the estates of Destiny Graham and Da'Marcus King, deceased, for all damages to which they are entitled. In this regard, no administration was necessary on the estates of Destiny Graham and Da'Marcus King.

7.4 ***Laumarko King***

Laumarko King is a surviving parent of Da'Marcus King, deceased, and sues the defendants for the wrongful death of his son for all damages to which he is entitled pursuant to TCPRC 71.001 et seq. In addition, Laumarko King sues on behalf of the estate of Da'Marcus King, deceased for all damages to which it is entitled. In this regard, no administration was necessary on the estate of Da'Marcus King.

7.5 ***Deshawn Brown and Cassandra Brown***

Deshawn Brown and Cassandra Brown are the surviving parents of Nathaniel Brown, deceased, and John "C.J." Brown, a Minor. They hereby sue the defendants for all damages to which they are entitled pursuant to TCPRC 71.001 et seq. for the

wrongful death of their son and at common law for all damages to which they and their surviving son, "C J", are entitled on account of his injuries. Additionally, they sue the defendants on behalf of the estate of Nathaniel Brown, deceased, for all damages to which it is entitled. In this regard, no administration on the estate of Nathaniel Brown was necessary.

7.6 *James Davison, Jr. and Debbie Rockwell*

James Davison, Jr. and Debbie Rockwell are the surviving parents of Teshareme Davison, deceased. They sue the defendants for all damages to which they are entitled for the wrongful death of their daughter pursuant to ICPRC 71-001 et seq. They also sue on behalf of the estate of Teshareme Davison, deceased for all damages to which it is entitled. In this regard, no administration on the estate of Teshareme Davison was necessary.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that defendants be cited to appear and answer, and that upon the trial of this cause, that the plaintiffs have judgment against the Defendants, jointly and severally, in an amount in excess of the minimum jurisdictional limits of the court, for prejudgment and postjudgment interest at the highest rates permitted by law, and for such other and further relief to which the plaintiffs may be entitled, at law or in equity.

Respectfully submitted,

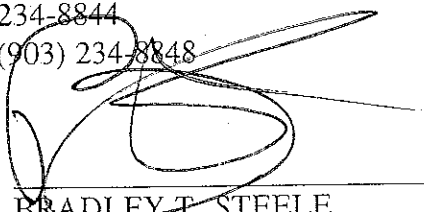
LAW OFFICE OF  
BRADLEY T. STEELE

1101 Judson Road  
Longview, Texas 75601

(903) 234-8844

Fax: (903) 234-8848

BY:

  
BRADLEY T. STEELE

STATE BAR NO 19099350

Attorney for Clara Patton, Kimberly Graham  
Laumarko King, Deshawn and Cassandra  
Brown

SLOAN, BAGLEY, HATCHER & PERRY

101 E Whaley St

P O Drawer 2909

Longview, TX 75606-2909

(903) 757-7000

Fax: (903) 757-7574

BY:

  
GLENN A. PERRY

STATE BAR NO. 1580150

Attorney for James Davison, Jr and Debbie  
Rockwell

**PLAINTIFFS HEREBY RESPECTFULLY DEMAND A TRIAL BY JURY**

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that  
 I executed the foregoing citation in Harrison County, Texas on the  
8 day of Jan 2008, by placing in the US Mail a true copy  
 of this citation, with a true copy of the aforesaid pleading attached thereto,  
 via certified mail, Cause no. 08-0023, addressed to  
Kidde Flynetics, Inc. and endorsed  
 thereon "return receipt requested", after having first endorsed on said copy  
 of said citation the date of mailing and the name and address of the within  
 named recipient, to certify which witness my hand officially this 8  
 day of Jan 2008.

<b>U.S. Postal Service</b> <b>CERTIFIED MAIL</b> (Domestic Mail Only; No In- ternational Mail)	<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
For delivery information visit <a href="http://usps.com">usps.com</a> <u>Kidde Flynetics</u>	■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits	A Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee <u>X</u>
Postage \$ Certified Fee Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required) Total Postage & Fees \$	1 Article Addressed to:  KIDDE FLYNETICS, INC. ITS REGISTERED AGENT C T CORPORATION SYSTEM 350 NORTH ST. PAUL STREET DALLAS, TEXAS 75201  <u>08-0023</u>	B Received by (Printed Name) <u>JAN 10 2008</u> <b>RECEIVED</b> <b>CT CORPORATION</b> C Date of Delivery
Sent to Street, Apt. No., or PO Box No. City, State ZIP+4	2 Article Number (Transfer from service label) PS Form 3811, August 2001	D Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:  3 Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4 Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
PS Form 3800, August 2005	Domestic Return Receipt	7007 0220 0003 5127 5663 102595-02-M-1540

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause no 08-0023, addressed to Cavalier Enterprises, Inc. and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

U.S. Postal Service		SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<b>CERTIFIED</b> (Domestic Mail Only) For delivery information: <u>Cavalier Enterprises, Inc.</u>		<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A Signature <u>JAN 10 2008</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee <b>X RECEIVED</b> B. Received by (Printed Name) <u>CT CORPORATION</u> C. Date of Delivery	
Postage \$		1. Article Addressed to:		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
Certified Fee		CAVALIER ENTERPRISES, INC ITS REGISTERED AGENT C T CORPORATION SYSTEM 350 NORTH ST. PAUL STREET DALLAS TEXAS 75201		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
Return Receipt Fee (Endorsement Required)		2. Article Number		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
Restricted Delivery Fee (Endorsement Required)		(Transfer from service label)			
Total Postage & Fees \$		7007 0220 0003 5127 7094			
Sent To		PS Form 3811, August 2001		Domestic Return Receipt	
Street, Apt. No., or PO Box No.		PS Form 3811, August 2001		102595-02-M-1540	
City, State, ZIP+4					

## CLERKS CERTIFICATE OF SERVICE

*BT*

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008, by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause No. 08-0023, addressed to Patricia Griffin and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only)		SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
For delivery information <u>Patricia Griffin</u>		<input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <u>[Signature]</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) <u>Paul Chipchak</u> C. Date of Delivery <u>1-11-08</u> D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:	
Postage \$		1. Article Addressed to:		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
Certified Fee		PATRICIA GRIFFIN D/B/A DISCOUNT HOMES P. O. BOX 114 MAGNOLIA, TEXAS 77353-0114 <u>08-0023</u>			
Return Receipt Fee (Endorsement Required)		2. Article Number		7007 0220 0003 5127 7117 PS Form 3811, August 2001	
Restricted Delivery Fee (Endorsement Required)		(Transfer from service label)		Domestic Return Receipt 102595-02-M-1540	
Total Postage & Fees \$		Sent To			
Street, Apt. No., or PO Box No.		City, State ZIP+4			

PS Form 3808, August 2006



## CLERKS CERTIFICATE OF SERVICE

*BP*

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan. 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail, Cause no 08-0023, addressed to Spirit Homes, Inc and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

U.S. Postal Service  
**CERTIFIED**  
(Domestic Mail Only)

For delivery information

*Spirit Homes, Inc*

Postage \$  
Certified Fee  
Return Receipt Fee (Endorsement Required)  
Restricted Delivery Fee (Endorsement Required)  
Total Postage & Fees \$

Sent To  
Street, Apt. No., or PO Box No.  
City, State ZIP+4

PS Form 3811, August 2001

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SPIRIT HOMES, INC.  
ITS REGISTERED AGENT  
C I CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

2. Article Number  
(Transfer from service label)

PS Form 3811, August 2001

## COMPLETE THIS SECTION ON DELIVERY

A. Signature

**X**

B. Received by (Printed Name) CI CORPORATION Date of Delivery JAN 10 2008

D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail  
☒ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

7007 0220 0003 5127 5687

Domestic Return Receipt

102595-02-M-1540

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail. Cause no 08-0023, addressed to Cavalier Home Builders and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

U.S. Postal Service<sup>TM</sup>  
**CERTIFIED MAIL<sup>TM</sup> REG<sup>TM</sup>**  
 (Domestic Mail Only; No Insurance Coverage)

For delivery information, visit our website at [usps.com](http://usps.com)

Cavalier Home Builders

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To  
 Street, Apt. No.,  
 or PO Box No.  
 City, State, Zip+4

PS Form 3811, August 2001

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits

1. Article Addressed to:

CAVALIER HOME BUILDERS L L C  
 ITS REGISTERED AGENT  
 C I CORPORATION SYSTEM  
 350 NORTH ST. PAUL STREET  
 DALLAS, TEXAS 75201

2. Article Number  
 (Transfer from service label)

PS Form 3811, August 2001

## COMPLETE THIS SECTION ON DELIVERY

A. Signature  
**X** JAN 10 2008  
 B. Received by (Printed Name) RECEIVED  
 C. Date of Delivery ST. CORPORATION

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

3. Service Type  
☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

7007 0220 0003 5127 7100

Domestic Return Receipt

102595-02-M-1540

NO. 08-0023

RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM  
Plaintiff,

V.

INVACARE CORPORATION,  
PRAXAIR HEALTHCARE SERVICES,  
INC., KIDDE FYRNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C./K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.

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IN THE DISTRICT COURT

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71ST JUDICIAL DISTRICT

OF HARRISON COUNTY, TEXAS

PLEA IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

**I. PARTIES AND SERVICE**

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas has appeared in this action individually and on behalf of the estate of Destiny Graham.

2. Defendant, Invacare Corporation, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas and whose principal place of business is a state other

Plea In Intervention--1

than the state of Texas. Defendant may be served with notice of this Plea by sending a copy by certified mail, return receipt requested to its attorney: David Macdonald, Macdonald, Devin, 3800 Renaissance Tower, 1201 Elm St., Dallas, Texas, 75270.

3. Defendant, Praxair Healthcare Services, Incorporated, is a foreign corporation, organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: Corporation Service Company d/b/a CSC-Lawyers Inc., 701 Brazos Street, Suite 1050, Austin, Texas, 78701

4. Defendant, Kidde Fyrnetics, Inc., A UTC Fire & Security Company, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 North St Paul Street, Dallas, Texas

5. Defendant, Spirit Homes, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service because Defendant, who has engaged in business in Texas, does not have its registered agent on file. The Texas Secretary of State may serve the Defendant by serving: The Corporation Company, 425 West Capital Avenue, Suite 1700, Little Rock, Arkansas 72201.

6 Defendant, Spirit Homes, Inc., a division of Cavalier Enterprises, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N St Paul Street, Dallas, Texas

7. Defendant, Cavalier Enterprises, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 N. St. Paul Street, Dallas, Texas.

8. Defendant, Cavalier Home Builders, L.L.C. f/k/a Cavalier Homes of Alabama, Inc., is a foreign corporation organized and existing pursuant to the laws of a state other than Texas, and whose principal place of business is a state other than the State of Texas. Defendant may be served with notice of this Plea by sending a copy to its registered agent by certified mail, return receipt requested, to wit: CT Corporation System, 350 St. Paul Street, Dallas, Texas 75201

9 Defendant, Patricia Griffin d/b/a Discount Homes, is an individual who engaged in business in Texas; the lawsuit arises out of Defendant's business in Texas. Defendant may be served with notice of this Plea by sending a copy of this Plea to said Defendant by serving Defendant by certified mail, return receipt requested at her mailing address: P O. Box 114, Magnolia, Texas 77353-0114.

II.

on County is proper in this cause. All or a substantial part of the set forth herein occurred in Harrison County, Texas.

III.

rick Keith Graham has a justiciable interest in the matters in The intervenor is the father of decedent Destiny Graham, who was 1 she was living caught fire On January 9, 2005, a fire broke ie located on Farm to Market Road 450 North, south of Ore City and home, a 1999 Spirit Saratoga, was owned by Clara Patton and of the fire, the mobile home was occupied by Clara Patton, her son's daughter, Kimberly Graham and her two (2) children, Destiny , and their friends, Nathaniel Brown, John "C.J." Brown and aused the deaths of Laura Patton, age 75, Destiny Graham, age 11, nial Brown, age 5, Teshareme Davison, age 12. Injured in the fire aham and John "C.J." Brown

V.

hat a defect existed in the concentrator which caused it to overheat ibly dangerous as designed, manufactured and marketed and which

overheating occurred, in part, due to the failure of Praxair Healthcare Services, Incorporated, to maintain the concentrator.

13. Additionally, Plaintiff alleges that Praxair Healthcare Services failed to instruct Laura Patton in the safe use of the concentrator and to warn of the dangers inherent in the use of the concentrator. These acts of negligence were a proximate cause of the death of Destiny Graham.

14. Plaintiff alleges that the design, manufacture and marketing of the smoke alarms by Kidde Fyrenetics, Inc., A UTC Fire & Security Company, was defective such that they failed to provide a timely warning to the occupants of the mobile home. The delay in discovering the fire allowed smoke to fill the home such that when the occupants did finally discover the fire, the degree of smoke then existing caused great confusion, difficulty breathing and prevented those who perished from escaping, ultimately leading to their deaths. Thus, the defective smoke detector was a producing cause of the injuries and deaths herein.

15. Pleading further, Plaintiff alleges that a defect in the electrical wiring of the mobile home existed which was a producing cause of the fire and the death of Destiny Graham. Defendants negligently wired the smoke detectors located within the mobile home and failed to include adequate smoke detectors. Such negligence was a proximate cause of the basis of this suit. This defect in the wiring rendered it unreasonably dangerous as designed, manufactured and marketed. The wiring was designed, manufactured and marketed by Spirit Homes, Inc., Spirit Homes, Inc., a division of Cavalier Enterprises, Inc., Cavalier Enterprises, Inc., Cavalier Enterprises of Alabama, Inc. and/or Discount Homes.

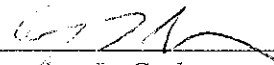
## VI

14. Roderick Keith Graham is a surviving parent of the decedent Destiny Graham and sues the Defendants for the wrongful death of his daughter for all damages to which he is entitled Pursuant to Texas Civil Practice and Remedies Code § 71.001, et seq. In addition, Roderick Keith Graham sues on behalf of the estate of Destiny Graham, deceased, for all damages to which she is entitled

**WHEREFORE, PREMISES CONSIDERED,** Intervenor, Roderick Keith Graham, respectfully prays that the parties take notice of the filing of this Plea in Intervention, and that upon a final hearing of the cause, judgment be entered for the Intervenor and against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Intervenor may be entitled at law or in equity.

Respectfully submitted,

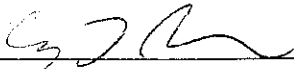
Lauren Graham International P.L.L.C.

By:   
Christopher L. Graham  
Texas Bar No. 24047549  
400 N. St. Paul Street, Suite #1000  
Dallas, Texas 75201  
Mailing Address:  
P O. Box 3009  
Cedar Hill, Texas 75104  
Tel. (214)673-3435  
Fax (972)291-1223  
Attorney for Intervenor  
Roderick Keith Graham



**CERTIFICATE OF SERVICE**

ry 9, 2008 a true and correct copy of Plaintiff's Petition in  
person listed below by the method indicated

  
\_\_\_\_\_  
Christopher L. Graham

e

270

pt Requested: 7006 0810 0004 3808 6951

/b/a CSC-Lawyers Inc.,

pt Requested: 7006 0810 0004 3808 6968

Spirit Homes, Inc.  
Texas Secretary of State,  
1019 Brazos Street,  
Austin, Texas 78701  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 3808 6982

Spirit Homes, Inc., a division of Cavalier Enterprises, Inc.  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8064

Cavalier Enterprises, Inc.  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8071

Cavalier Home Builders, L.L.C f/k/a Cavalier Homes of Alabama, Inc.  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8088

Patricia Griffin d/b/a Discount Homes  
P.O. Box 114,  
Magnolia, Texas 77353-0114  
By Certified Mail, Return Receipt Requested: 7006 0810 0004 6219 8095

BRAD STEELE\*

Kevin Oden, Investigator

\*BOARD CERTIFIED  
- Personal Injury Trial Law  
- Civil Trial Law  
Texas Board of  
Legal Specialization  
- Licensed in Texas and Oklahoma

LAW OFFICE OF  
**BRADLEY T. STEELE, P.C.**

1101 JUDSON ROAD  
LONGVIEW, TEXAS 75601



2008 JAN 16 AM 10:39  
SHERRY GREEN  
Email: bradleysteele@sbcglobal.net  
Email: kevinoden@sbcglobal.net

January 9, 2008

BY:  
DEPUTY

District Clerk - Harrison County  
Attn: Bobbie Johnson  
P.O. Box 1119  
Marshall, Texas 75670

Re: Cause No 08-0023; Clara Patton, et al vs Invacare Corporation, et al

Dear Bobbie:

Enclosed please find our firm check no 15649 in the amount of \$30 00 which is the amount for the jury fee which I did not pay for at the time of filing. In addition, I have enclosed our firm check no 15650 in the amount of \$55 00 payable to the Secretary of State.

Thank you for your assistance in this matter

Sincerely,

Cheryl Stevenson  
Assistant to Bradley T. Steele

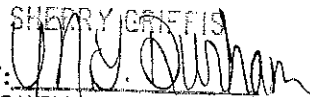
/cs  
Enclosure



FOR RECORD  
HARRISON COUNTY, TEX.  
DISTRICT COURT

David M. Macdonald  
Direct: 214 651 3300  
dmacdonald@macdonalddevin.com

2008 JAN 17 AM 10:49

SHERRY GRIFFIS  
BY:   
January 15, 2008

Ms. Mary Durham  
Harrison County District Clerk  
200 West Houston  
Suite 234  
Marshall, TX 75670

Re: Cause No 08-0023; *Clara Patton et al V Invacare Corporation, et al*  
Our File No. 676/30

Dear Ms Durham::

Pursuant to our telephone conversation, please forward to me a copy of the Plea in Intervention which was filed on January 11, 2008 on behalf of Roderick Keith Graham in the above-referenced matter

I have enclosed our Firm's Check in the amount of \$8 00 as payment for the certified copies  
I have also enclosed a self-addressed, stamped envelope for your convenience.

Sincerely,

A handwritten signature in cursive script, reading "Tannis M. Stone".

Tannis M. Stone  
Legal Assistant to  
David M. Macdonald

Enclosures  
207941 1 00676/0030

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008 by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail Cause no 08-0023, addressed to Praxair Healthcare Service and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

U.S. Postal Service  
**CERTIFIED MAIL**  
(Domestic Mail Only)

For delivery information:  
Praxair

Postage \$  
Certified Fee  
Return Receipt Fee (Endorsement Required)  
Restricted Delivery Fee (Endorsement Required)  
Total Postage & Fees \$

Sent To

Street, Apt. No.,  
or PO Box No.  
City, State, ZIP+4

PS Form 3811, August 2001

## SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

PRAXAIR HEALTHCARE SERVICES,  
INCORPORATED  
ITS REGISTERED AGENT  
CORPORATION SERVICE CO.  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TEXAS 78701

## 2. Article Number

(Transfer from service label)

PS Form 3811, August 2001

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

Chris Hornsby  
Received by (Printed Name)

☒ Agent  
☐ Addressee

Christopher Hornsby

## C. Date of Delivery

1/14/08

## D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below: ☒ No

## 3. Service Type

☒ Certified Mail ☐ Express Mail  
☒ Registered ☒ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

## 4. Restricted Delivery? (Extra Fee)

☐ Yes

7007 0220 0003 5127 7087

Domestic Return Receipt

102595-02-M-1540



CT

a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 979 9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

CLERK OF DISTRICT COURT  
HARRISON COUNTY TEXAS

2008 JAN 18 AM 11:36

January 14 2008

SHERRY GRIFFIS  
BY: *[Signature]*  
DEPUTY

Christopher L. Graham  
Lauren Graham International P L L C  
400 N St Paul, Suite 1000  
Dallas TX 75201

Re Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham. Pltf /Intervenor vs Invacare Corporation et al  
including Kidde Fyrnetics Inc , Dfts

Case No 080023

Dear Sir/Madam:

We are herewith returning the Letter, Plea in Intervention Certificate of Service which we received regarding the above captioned matter

Kidde Fyrnetics Inc is not listed on our records or on the records of the State of TX

Very truly yours

Sandra Galicia  
Process Specialist

Log# 512977369

cc. 71st Judicial District Court Harrison County, Texas  
Sherry Griffis Clerk  
PO Box 1119  
Marshall Tx 75671

LAUREN GRAHAM INTERNATIONAL PLLC

California \* New York \* Texas \* Mexico

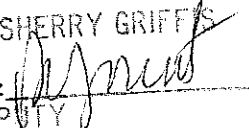
C. Lauren Graham admitted CA, NY, TX  
Enrique Garcia "of counsel" admitted in Mexico only

400 N St Paul St. Ste #1000  
Dallas, Texas 75201

Phone: 214-673-3435  
Fax: 972-291-1223  
DISTRICT COURT

2008 JAN 18 AM 11:36

SHERRY GRIFFIS

BY:   
DEPUTY

January 8, 2008

**VIA CERTIFIED MAIL: 7006 0810 0004 3808 6951**


Harrison County District Clerk  
P O Box 1119  
Marshall, Texas 75671

RE: Roderick Keith Graham v. Invacare et al, Plea in Intervention; Filing Fees

Please find enclosed Plaintiff's Plea in Intervention and necessary filing fees. Send a file-stamped copy of the Plea back to my office in the pre-paid enclosed envelope. Please do not hesitate to contact our office if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,



C. Lauren Graham, Esq  
Lauren Graham International PLLC

Cc: Bradley Steele  
Law Offices of Bradley T Steele  
1101 Judson Road  
Longview, Texas 75601  
By Facsimile: (903) 234-8848

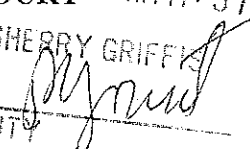
Glenn Perry  
Sloan Bagley, Hatcher & Perry  
101 E. Whaley St.  
P.O. Drawer 2909  
Longview, TX 75606-2909  
By Facsimile: (903) 757-7574

Invacare Corporation  
David Macdonald,  
Macdonald Devin.

NO. 08-0023FOR RECORD  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

2008 JAN 18 AM 11:37

SHERY GRIFFIN

BY:   
DEPUTY

**RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM**  
Plaintiff,

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IN THE DISTRICT COURT

§

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V.

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71ST JUDICIAL DISTRICT

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**INVACARE CORPORATION,  
PRAXAIR HEALTHCARE SERVICES,  
INC., KIDDE FURNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C./K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES**  
Defendants.

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OF HARRISON COUNTY, TEXAS

PLEA IN INTERVENTION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

**I. PARTIES AND SERVICE**

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas has appeared in this action individually and on behalf of the estate of Destiny Graham.

2. Defendant, Invacare Corporation, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas and whose principal place of business is a state other



Lauren Graham International PLLC  
P.O. Box 3009  
Cedar Hill, Texas 75104



7006 0810 0004 3808 6975



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75201

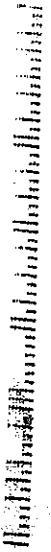
U.S. POST  
PAID  
DALLAS, TX  
JAN 08  
AMOUNT

\$53.00

Kidde Fyrnetics, Inc.  
CT Corporation System,  
350 North St. Paul Street,  
Dallas, Texas 75201

RECEIVED  
JAN 08 2008

1320134284 0005





a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 973 0450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

FOR RECD  
COUNTY, TEX  
DISTRICT COURT

2008 JAN 18 AM 11:36

January 10, 2008

SHERRY GRIFFIS  
BY: *Sherry Griffis*  
DEPUTY

C Lauren Graham  
Lauren Graham International P L L C  
400 N St. Paul, Ste #1000  
Dallas, TX 75201

Re: Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham, Pltf /Intervenor vs Invacare Corporation et al  
including Cavalier Enterprises Inc Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX it has been determined that C T Corporation System is not the registered agent  
for an entity by the name of Cavalier Enterprises Inc

Accordingly we are returning the documents received from you

Very truly yours

Sandra Galicia  
Process Specialist

Log# 512966030

cc: 71st Judicial District Court Harrison County Texas  
Sherry Griffis Clerk  
PO Box 1119  
Marshall Tx 75671

Attorneys & Counselors

**LAUREN GRAHAM INTERNATIONAL P.L.L.C.**

California \* New York \* Texas \* Mexico

Lauren Graham admitted CA, NY, TX  
Enrique Garcia "of counsel" admitted in Mexico only

400 N St Paul St. Ste #1000  
Dallas, Texas 75201

Phone: 214-673-3435  
Fax: 972-291-1223

2008 JAN 18 AM 11:36

SHERRY GRIFFIS  
BY: *Roderick Keith Graham*  
DEPUTY

January 8, 2008

**VIA CERTIFIED MAIL: 7006 0810 0004 3808 6951**

Harrison County District Clerk

P O. Box 1119

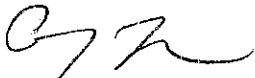
Marshall, Texas 75671

RE: Roderick Keith Graham v. Invacare et al, Plea in Intervention; Filing Fees

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Thank you for your prompt attention to this matter.

Sincerely,



C. Lauren Graham, Esq.  
Lauren Graham International PLLC

Cc: Bradley Steele  
Law Offices of Bradley T Steele  
1101 Judson Road  
Longview, Texas 75601  
By Facsimile: (903) 234-8848

Glenn Perry  
Sloan Bagley Hatcher & Perry  
101 E. Whaley St.  
P O. Drawer 2909  
Longview TX 75606-2909  
By Facsimile: (903) 757-7574

Invacare Corporation  
David Macdonald  
Macdonald Devin

NO. 08-0023

FOR RECORD  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM  
Plaintiff,

§

IN THE DISTRICT COURT

2008 JAN 11: 36

SHERY GRIFFIS

BY: [Signature]  
DEPUTY

V.

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71ST JUDICIAL DISTRICT

INVACARE CORPORATION,  
PRAXAIR HEATHCARE SERVICES,  
INC., KIDDE FURNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C.F/K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.

OF HARRISON COUNTY, TEXAS

**PLEA IN INTERVENTION**

TO THE HONORABLE JUDGE OF SAID COURT:

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14. Roderick Keith Graham is a surviving parent of the decedent Destiny Graham and sues the Defendants for the wrongful death of his daughter for all damages to which he is entitled Pursuant to Texas Civil Practice and Remedies Code § 71.001, et seq. In addition, Roderick Keith Graham sues on behalf of the estate of Destiny Graham, deceased, for all damages to which she is entitled.

**WHEREFORE, PREMISES CONSIDERED,** Intervenor, Roderick Keith Graham, respectfully prays that the parties take notice of the filing of this Plea in Intervention, and that upon a final hearing of the cause, judgment be entered for the Intervenor and against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Intervenor may be entitled at law or in equity

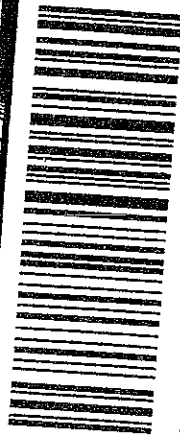
Respectfully submitted,

Lauren Graham International P L L C.

By: \_\_\_\_\_  
Christopher L. Graham  
Texas Bar No. 24047549  
400 N. St. Paul Street, Suite #1000  
Dallas, Texas 75201  
Mailing Address:  
P.O. Box 3009  
Cedar Hill, Texas 75104  
Tel. (214)673-3435  
Fax (972)291-1223  
Attorney for Intervenor  
Roderick Keith Graham

[illegible]

Cavalier Enterprises, Inc. c/o  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201



7006 0830 0004 6219 8071



75201

0000

U.S. POSTAGE  
PAID  
DALLAS, TX  
75222  
JAN 08, 08  
AMOUNT

\$5.35

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CT

a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 975 9450 tel

214 754 0921 fax

www.ctlegalsolutions.com

2008 JAN 18 AM 11:36

SHERRY GRIFFIS

BY:   
DEPUTY

January 10, 2008

C Lauren Graham  
Lauren Graham International P L L C  
400 N St. Paul, Ste #1000  
Dallas TX 75201

Re: Roderick Keith Graham. Individually and on behalf of the Estate of Destiny Graham Pltf/Intervenor vs Invacare Corporation et al  
including Spirit Homes Inc a division of Cavalier Enterprises Inc Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C T Corporation System is not the registered agent  
for an entity by the name of Spirit Homes, Inc. a division of Cavalier Enterprises Inc

Accordingly we are returning the documents received from you

Very truly yours.

Sandra Galicia  
Process Specialist

Log# 512966008

cc: 71st Judicial District Court Harrison County Texas  
Sherry Griffis, Clerk  
PO Box 1119,  
Marshall Tx 75671

Attorneys & Counselors  
**LAUREN GRAHAM INTERNATIONAL P.L.L.C.**

California \* New York \* Texas \* Mexico

C. Lauren Graham admitted CA NY, TX  
Enrique Garcia "of counsel" admitted in Mexico only

400 N St Paul St. Ste #1000  
Dallas, Texas 75201

Phone: 214-673-3435  
Fax: 972-291-1223  
DISTRICT COURT

2008 JAN 18 AM 11:36

SHERY GRIFFIS  
*[Signature]*

BY: \_\_\_\_\_  
DEPUTY

January 8, 2008

**VIA CERTIFIED MAIL: 7006 0810 0004 3808 6951**

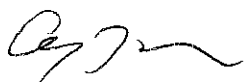
Harrison County District Clerk  
P.O. Box 1119  
Marshall, Texas 75671

RE: Roderick Keith Graham v Invacare et al, Plea in Intervention; Filing Fees

Please find enclosed Plaintiff's Plea in Intervention and necessary filing fees. Send a file-stamped copy of the Plea back to my office in the pre-paid enclosed envelope. Please do not hesitate to contact our office if you have any questions.

Thank you for your prompt attention to this matter.

Sincerely,



C. Lauren Graham, Esq.  
Lauren Graham International PLLC

Cc: Bradley Steele  
Law Offices of Bradley I Steele  
1101 Judson Road  
Longview, Texas 75601  
By Facsimile: (903) 234-8848

Glenn Perry  
Sloan Bagley Hatcher & Perry  
101 E. Whaley St.  
P O Drawer 2909  
Longview TX 75606-2909  
By Facsimile: (903) 757-7574

Invacare Corporation  
David Macdonald  
Macdonald Devin



NO. 08-0023

FOR RECORD  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

2008 JAN 18 AM 11:36

**RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM  
Plaintiff,**

§

**IN THE DISTRICT COURT**

SHERRY GRIFFIS  
BY Patricia Yount  
DEPUTY

**V.**

§

§

§

**71ST JUDICIAL DISTRICT**

§

**INVACARE CORPORATION,  
PRAXAIR HEALTHCARE SERVICES,  
INC., KIDDE FURNETICS, INC.,  
SPIRIT HOMES, INC., SPIRIT  
HOMES, INC., A DIVISION OF  
CAVALIER ENTERPRISES, INC.,  
CAVALIER ENTERPRISES, INC.,  
CAVALIER HOME BUILDERS,  
L.L.C./K/A CAVALIER HOMES OF  
ALABAMA, INC. AND PATRICIA  
GRIFFIN D/B/A DISCOUNT HOMES  
Defendants.**

§

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§

**OF HARRISON COUNTY, TEXAS**

**PLEA IN INTERVENTION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COMES Roderick Keith Graham, hereinafter called Intervenor, and files this Plea in Intervention, and in support hereof, shows the Court the following:

**I. PARTIES AND SERVICE**

1. Plaintiff, Roderick Keith Graham whose residence is located in Dallas County, Texas has appeared in this action individually and on behalf of the estate of Destiny Graham

2 Defendant, Invacare Corporation, is a foreign corporation organized and existing pursuant to the laws of a state other than Texas and whose principal place of business is a state other

14 Roderick Keith Graham is a surviving parent of the decedent Destiny Graham and sues the Defendants for the wrongful death of his daughter for all damages to which he is entitled Pursuant to Texas Civil Practice and Remedies Code § 71 001, et seq. In addition, Roderick Keith Graham sues on behalf of the estate of Destiny Graham, deceased, for all damages to which she is entitled.

**WHEREFORE, PREMISES CONSIDERED,** Intervenor, Roderick Keith Graham, respectfully prays that the parties take notice of the filing of this Plea in Intervention, and that upon a final hearing of the cause, judgment be entered for the Intervenor and against Defendants for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Intervenor may be entitled at law or in equity.

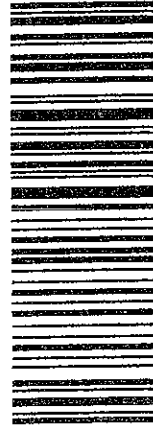
Respectfully submitted,

Lauren Graham International P L L C.

By: \_\_\_\_\_

Christopher L. Graham  
Texas Bar No. 24047549  
400 N St. Paul Street, Suite #1000  
Dallas, Texas 75201  
Mailing Address:  
P O. Box 3009  
Cedar Hill, Texas 75104  
Tel (214)673-3435  
Fax (972)291-1223  
Attorney for Intervenor  
Roderick Keith Graham

Lauren Granam International PLLC  
P.O. Box 3009  
Cedar Hill, Texas 75104



7006 0810 0004 6219 8064



0000



75201

U.S. POSTAGE  
PAID  
DALLAS, TX  
75222  
JAN 08 '08  
AMOUNT

\$5.50  
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RETURN RECEIPT  
REQUESTED

Spirit Homes, Inc., a division of Cavalier  
Enterprises, Inc. c/o  
CT Corporation System,  
350 N. St. Paul Street,  
Dallas, Texas 75201

75201-4284 0005



CT

a Wolters Kluwer business

CT  
350 North St. Paul Street  
Suite 2900  
Dallas, TX 75201

214 979 9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

FOR RECORD  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

2008 JAN 22 AM 11:33

SHERRY GRIFFIS

BY:   
DEPUTY

January 10, 2008

Bradley T. Steele  
Law Office of Bradley T. Steele  
1101 Judson Road,  
Longview, TX 75601

Re: Roderick Keith Graham, Individually and on behalf of the Estate of Destiny Graham, Pltf./Intervenor vs  
Invacare Corporation, et al including Cavalier Enterprises, Inc , Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C T Corporation  
System is not the registered agent for an entity by the name of Cavalier Enterprises, Inc ,

Accordingly, we are returning the documents received from you.

Very truly yours,

Marie-Dominique Sheeter  
Process Specialist

Log# 512966574

cc: 71st Judicial District Court of Harrison County

, TX

CAUSE NO. 08-0023

FILED FOR RECORD  
HARRISON COUNTY, TEXAS  
IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS

2008 JAN 22 AM 11:33

PLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS.

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

SHERRY GRIFFIS  
**COPY**  
BY: \_\_\_\_\_  
DEPUTY

**CITATION**

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: CAVALIER ENTERPRISES, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SEAL

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

BY \_\_\_\_\_

DEPUTY

Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_ m.

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by delivering to \_\_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Fee \$ \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

\_\_\_\_\_  
affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

CAUSE NO. 080023

FILED  
HARRISON COUNTY, TEXAS  
DISTRICT COURT

2008 JAN -7 PM 4:52

IN THE DISTRICT COURT OF

SHERY CHIEFS

BY:  
DEPUTY

*B. Johnson*

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES §  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR. §  
AND DEBBIE ROCKWELL, IND. AND ON §  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

HARRISON COUNTY, TEXAS

VS.

INVACARE CORPORATION, PRAXAIR §  
HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, INC., §  
SPIRIT HOMES, INC., A DIVISION OF §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/ACAVALIER HOMES OF §  
ALABAMA, INC. AND §  
PATRICIA B. GRIFFIN D/B/A §  
DISCOUNT HOMES, INC. §

71<sup>ST</sup> JUDICIAL DISTRICT

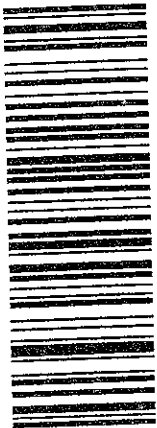
PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARA PATTON, IND. AND ON BEHALF OF THE ESTATE OF LAURA  
PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE  
ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED,  
LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY  
AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

SHERRY GRIFFIS  
HARRISON COUNTY DISTRICT CLERK  
206 WEST HOUSTON, STE 234  
MARSHALL, TX 75670

**CERTIFIED MAIL**



7007 0220 0003 5127 7094



UNITED STATES POSTAGE  
\$05.55  
02 1A  
0004339501 JAN 09 2008  
MAILED FROM ZIP CODE 75670

CAVALIER ENTERPRISES, INC.  
ITS REGISTERED AGENT  
CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

**RETURN RECEIPT REQUESTED**



CT

a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas, TX 75201

214 979 9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

2018 JAN 25 AM 10:13

SHERY GRIFFIS  
BY *Patricia Grant*  
DEPUTY

January 10, 2008

Bradley I Steele  
Law Office of Bradley I Steele  
1101 Judson Road,  
Longview, TX 75601

Re: Clara Patton, Individually, and on Behalf of the Estate of Laura Patton, Deceased, Kimberly Graham, individually and on Behalf of the Estates of Destiny Graham, Deceased, et al, Pltfs vs Invacare Corporation, et al including Kidde Fynetics, Inc., Dfts

Case No 080023

Dear Sir/Madam:

We are herewith returning the Citation, Original Petition which we received regarding the above captioned matter

Kidde Fynetics, Inc is not listed on our records or on the records of the State of TX

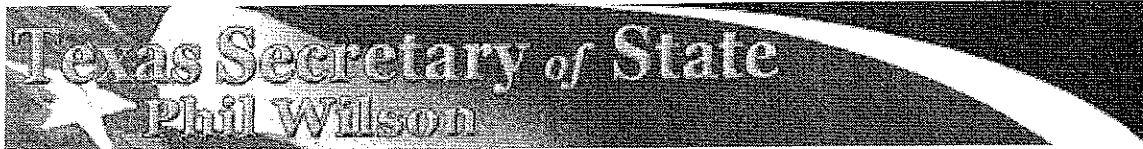
Very truly yours,

Wilma Tylei  
Process Specialist

Log# 512964999

cc: 71st Judicial District Court Harrison County, Texas  
Sherry Griffis, Clerk,  
PO Box 1119,  
Marshall, Tx 75671





[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

## FIND GLOBAL NAME SEARCH

This search was performed on with the following search parameter:

**ENTITY NAME :** kidde fynetics inc

<u>Mark</u>	<u>Filing</u> <u>Number</u>	<u>Name</u>	<u>Entity Type</u>	<u>Entity</u> <u>Status</u>	<u>Name</u> <u>Type</u>	<u>Name</u> <u>Status</u>
<input type="radio"/>	708801522	ANTIQUES DE FRANCE, LC	Domestic Limited Liability Company (LLC)	Forfeited existence	Legal	Inactive

[Return to Order](#)

[New Search](#)

### Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button.

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS

PLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

**COPY**

**CITATION**

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: KIDDE FYRNETICS, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SEAL

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

BY 

DEPUTY

Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_ m

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by delivering to \_\_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery.

To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Fee \$ \_\_\_\_\_

\_\_\_\_\_  
of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

\_\_\_\_\_  
affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

CAUSE NO. 08-0023

HARRISON COUNTY, TEXAS  
DISTRICT COURT

2008 JAN -7 PM 4:52  
IN THE DISTRICT COURT OF

SHERRY GRIFFIN  
BY: B. Griffin  
DEPUTY

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES §  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR. §  
AND DEBBIE ROCKWELL, IND. AND ON §  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

HARRISON COUNTY, TEXAS

VS.

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HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, INC., §  
SPIRIT HOMES, INC., A DIVISION OF §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/A CAVALIER HOMES OF §  
ALABAMA, INC. AND §  
PATRICIA B. GRIFFIN D/B/A §  
DISCOUNT HOMES, INC. §

71<sup>ST</sup> JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARA PATTON, IND. AND ON BEHALF OF THE ESTATE OF LAURA PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED, LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

Respectfully submitted,

LAW OFFICE OF  
BRADLEY T. STEELE

1101 Judson Road  
Longview, Texas 75601  
(903) 234-8844  
Fax: (903) 234-8848

BY: 

BRADLEY T. STEELE  
STATE BAR NO 19099350

Attorney for Clara Patton, Kimberly Graham  
Laumarko King, Deshawn and Cassandra  
Brown

SLOAN, BAGLEY, HAICHER & PERRY  
101 E. Whaley St  
P O. Drawer 2909  
Longview, TX 75606-2909  
(903) 757-7000  
Fax: (903) 757-7574

BY: 

GLENN A. PERRY  
STATE BAR NO 1580150

Attorney for James Davison, Jr. and Debbie  
Rockwell

**PLAINTIFFS HEREBY RESPECTFULLY DEMAND A TRIAL BY JURY**



CT

a Wolters Kluwer business

CT  
350 North St Paul Street  
Suite 2900  
Dallas TX 75201

214 979 9450 tel  
214 754 0921 fax  
www.ctlegalsolutions.com

2008 JAN 25 AM 10:13

SHERRY GRIFFIS  
BY: *Sherry Griffis*  
DEPUTY

January 10, 2008

Bradley T. Steele  
Law Office of Bradley T. Steele  
1101 Judson Road,  
Longview, TX 75601

Re: Clara Patton, Individually, and on Behalf of the Estate of Laura Patton, Deceased, Kimberly Graham, individually and on Behalf of the Estates of Destiny Graham, Deceased, et al, Pltfs vs Invacare Corporation, et al including Spirit Homes, Inc, Dfts

Case No 080023

Dear Sir/Madam:

After checking our records and the records of the State of TX, it has been determined that C T Corporation System is not the registered agent for an entity by the name of Spirit Homes, Inc

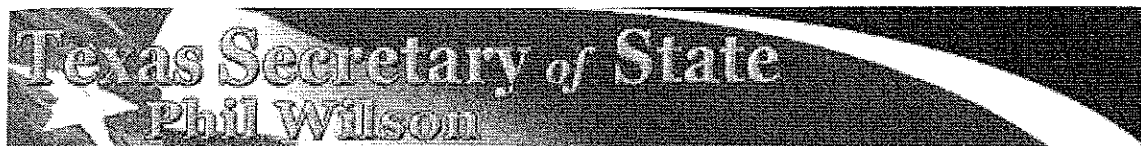
Accordingly, we are returning the documents received from you

Very truly yours,

Wilma Tyler  
Process Specialist

Log# 512964806

cc: 71st Judicial District Court Harrison County, Texas  
Sherry Griffis, Clerk,  
PO Box 1119,  
Marshall, Tx 75671



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

## FIND GLOBAL NAME SEARCH

This search was performed on with the following search parameter:

**ENTITY NAME :** spirit homes, inc

<u>Mark</u>	<u>Filing Number</u>	<u>Name</u>	<u>Entity Type</u>	<u>Entity Status</u>	<u>Name Type</u>	<u>Name Status</u>
<input type="radio"/>	52093300	SPIRIT HOMES, INC.	Domestic For-Profit Corporation	Forfeited existence	Legal	Inactive
<input type="radio"/>	134396800	SPIRIT HOMES, INC	Domestic For-Profit Corporation	Voluntarily dissolved	Legal	Inactive
<input type="radio"/>	<u>703521922</u>	SPIRIT HOMECARE	Domestic Limited Liability Company (LLC)	In existence	Assumed	Active
<input type="radio"/>	<u>800261444</u>	SPIRIT HOMECRAFTERS	Domestic For-Profit Corporation	Forfeited existence	Assumed	Entity Inactive
<input type="radio"/>	<u>800261444</u>	SPIRIT HOME BUILDERS, INC.	Domestic For-Profit Corporation	Forfeited existence	Legal	Inactive
<input type="radio"/>	<u>800261444</u>	Spirit Home Builders	Domestic For-Profit Corporation	Forfeited existence	Assumed	Entity Inactive
<input type="radio"/>	<u>800833408</u>	Spirit Home Health, Inc.	Domestic For-Profit Corporation	In existence	Legal	In use
<input type="radio"/>	<u>800774710</u>	SUN SPIRIT HOMES, L.L.C	Domestic Limited Liability Company (LLC)	In existence	Legal	In use
<input type="radio"/>	<u>800186877</u>	HIGH SPIRIT HOMEBUILDERS LC	Domestic Limited Liability Company (LLC)	In existence	Legal	In use
<input type="radio"/>	<u>104077800</u>	GENTEL SPIRIT HOMES, INC	Domestic For-Profit Corporation	Forfeited existence	Legal	Prior

Records 1 to 10 of 23 scroll

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of 3 pages

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### Instructions:

- To view additional information pertaining to a particular filing select the number associated with the name.
- To place an order for additional information about a filing select the radial button listed under 'Mark' that is associated with the entity and press the 'Order' button



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## BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

**Filing Number:** 52093300      **Entity Type:** Domestic For-Profit Corporation  
**Original Date of Filing:** June 6, 1980      **Entity Status:** Forfeited existence  
**Formation Date:** N/A  
**Tax ID:** 17421096227      **FEIN:**  
**Duration:** Perpetual  
**Name:** SPIRIT HOMES, INC.  
**Address:** [ADDRESS NOT PROVIDED]

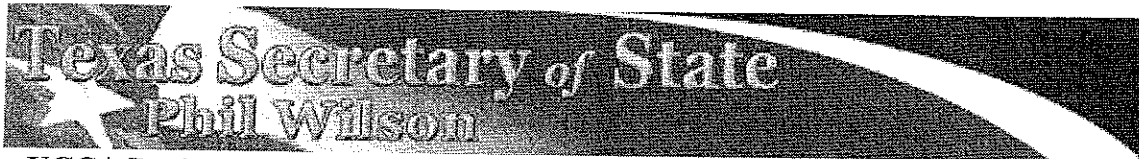
<u>REGISTERED</u> <u>AGENT</u>	<u>FILING</u> <u>HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED</u> <u>NAMES</u>	<u>ASSOCIATED</u> <u>ENTITIES</u>						
<table><tr><th>Name</th><th>Address</th><th>Inactive Date</th></tr><tr><td>Stephen Marburger</td><td>15502 BABCOCK RD. San Antonio, TX 78255 USA</td><td></td></tr></table>						Name	Address	Inactive Date	Stephen Marburger	15502 BABCOCK RD. San Antonio, TX 78255 USA	
Name	Address	Inactive Date									
Stephen Marburger	15502 BABCOCK RD. San Antonio, TX 78255 USA										

[Order](#)

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### Instructions:

- To place an order for additional information about a filing press the 'Order' button.



[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)  
**BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY**

**Filing Number:** 134396800      **Entity Type:** Domestic For-Profit Corporation  
**Original Date of Filing:** February 2, 1995      **Entity Status:** Voluntarily dissolved  
**Formation Date:** N/A  
**Tax ID:** 30117647286      **FEIN:**  
**Duration:** Perpetual  
**Name:** SPIRIT HOMES, INC.  
**Address:** 1702 S HIGHWAY 121 SUITE 410  
 Lewisville, TX 75067 USA

<u>REGISTERED</u> <u>AGENT</u>	<u>FILING</u> <u>HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED</u> <u>NAMES</u>	<u>ASSOCIATED</u> <u>ENTITIES</u>
<b>Name</b>	<b>Address</b>	<b>Inactive Date</b>			
[No Name Provided]	[ADDRESS NOT PROVIDED] [CITY NOT PROVIDED], [STATE NOT PROVIDED] USA				

[Order](#)      [Return to Search](#)

**Instructions:**

- To place an order for additional information about a filing press the 'Order' button



CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS

PLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

**COPY**

**CITATION**

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSON

THE STATE OF TEXAS  
COUNTY OF HARRISON

TO: SPIRIT HOMES, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you. You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SEAL

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

BY

DEPUTY

Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at \_\_\_\_ o'clock \_\_ m., on the \_\_\_\_ day of \_\_\_\_, 20\_\_.  
Executed at \_\_\_\_ in \_\_\_\_ County at \_\_\_\_ o'clock \_\_ m.  
on the \_\_\_\_ day of \_\_\_\_, 20\_\_, by delivering to \_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery.  
To certify which I affix my hand officially this \_\_\_\_ day of \_\_\_\_, 20\_\_.  
Fee \$ \_\_\_\_

\_\_\_\_ of \_\_\_\_ County, Texas  
by \_\_\_\_ deputy

affiant

On this day, \_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_, 20\_\_

Notary Public

CAUSE NO.

08023

IN THE DISTRICT COURT OF

2008 JAN -7 PM 4:52

SHERRY GRIFFIN

BY: B. Johnson  
DEPUTY

CLARA PATTON, IND. AND ON BEHALF §  
OF THE ESTATE OF LAURA PATTON, §  
DECEASED; KIMBERLY GRAHAM, §  
IND. AND ON BEHALF OF THE ESTATES §  
OF DESTINY GRAHAM, DECEASED, §  
AND DA'MARCUS KING, DECEASED; §  
LAUMARKO KING; DESHAWN BROWN §  
AND CASSANDRA BROWN, IND. AND §  
ON BEHALF OF THE ESTATE OF §  
NATHANIAL BROWN, DECEASED, AND §  
AS NEXT FRIEND FOR JOHN "C.J." §  
BROWN, A MINOR; JAMES DAVISON, JR. §  
AND DEBBIE ROCKWELL, IND. AND ON §  
BEHALF OF THE ESTATE OF §  
TESHAREME DAVISON, DECEASED §

VS.

INVACARE CORPORATION, PRAXAIR §  
HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, INC., §  
SPIRIT HOMES, INC., A DIVISION OF §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/A CAVALIER HOMES OF §  
ALABAMA, INC. AND §  
PATRICIA B. GRIFFIN D/B/A §  
DISCOUNT HOMES, INC. §

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CLARA PATTON, IND. AND ON BEHALF OF THE ESTATE OF LAURA PATTON, DECEASED, KIMBERLY GRAHAM, INDIVIDUALLY AND ON BEHALF OF THE ESTATE(S) OF DESTINY GRAHAM, DECEASED, AND DA'MARCUS KING, DECEASED, LAUMARKO KING, DESHAWN BROWN AND CASSANDRA BROWN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF NATHANIEL BROWN, DECEASED, AND AS NEXT

Respectfully submitted,

LAW OFFICE OF  
BRADLEY T. STEELE  
1101 Judson Road  
Longview, Texas 75601  
(903) 234-8844  
Fax: (903) 234-8848

BY: 

BRADLEY T. STEELE  
STATE BAR NO 19099350

Attorney for Clara Patton, Kimberly Graham  
Laumaiko King, Deshawn and Cassandra  
Brown

SLOAN, BAGLEY, HATCHER & PERRY  
101 E Whaley St  
P O Drawer 2909  
Longview, TX 75606-2909  
(903) 757-7000  
Fax: (903) 757-7574

BY: 

GLENN A. PERRY  
STATE BAR NO. 1580150

Attorney for James Davison, Jr. and Debbie  
Rockwell

**PLAINTIFFS HEREBY RESPECTFULLY DEMAND A TRIAL BY JURY**

MACDONALD  DEVIN  
ATTORNEYS

David M. Macdonald  
Direct: 214 651 3300

dmacdonald@macdonalddevin.com

January 25, 2008

BY:   
DEPUTY

*Via Federal Express*

Ms Sherry Griffis  
Harrison County District Clerk  
Harrison County Courthouse  
200 West Houston, Suite 234  
Marshall, TX 75671

Re: Cause No. 08-0023, *Clara Patton, Individually and on Behalf of the Estate of Laura Patton, Deceased, et al v Invacare Corporation, et al*, 71<sup>st</sup> Judicial District Court, Harrison County, Texas

Dear Ms. Griffis:

Enclosed please find the original and one copy of Defendant Invacare Corporation's Original Answer to Plaintiffs' Original Petition. Please file the original among the papers in this action and return the file-stamped copy to the undersigned via the enclosed stamped and self-addressed envelope.

If you have any questions, please let me know.

Sincerely,



David M. Macdonald

DMM:jdj  
Enclosures  
209236 676/30

Ms Sherry Griffis  
January 25, 2008  
Page 2

cc: (with enclosure)

Mr. Bradley T. Steele  
Law Office of Bradley T. Steele  
1101 Judson Road  
Longview, TX 75601

*Via CMRRR 7005 3110 0000 5082 0352*

Mr. Glenn A. Perry  
Sloan, Bagley, Hatcher & Perry  
101 E. Whaley St.  
P.O. Drawer 2909  
Longview, TX 75606-2909

*Via CMRRR 7005 3110 0000 5082 0369*

Mr. Christopher L. Graham  
Lauren Graham International P.L.L.C.  
400 N. St. Paul Street, Suite #1000  
Dallas, TX 75201

*Via Regular U.S. Mail*

CAUSE NO. 08-0023

CLARA PATTON, IND. AND ON §  
BEHALF OF THE ESTATE OF LAURA §  
PATTON, DECEASED; KIMBERLY §  
GRAHAM, IND. AND ON BEHALF OF §  
THE ESTATES OF DESTINY GRAHAM, §  
DECEASED, AND DA'MARCUS KING, §  
DECEASED; LAUMARKO KING; §  
DESHAWN BROWN AND CASSANDRA §  
BROWN, IND. AND ON BEHALF OF §  
THE ESTATE OF NATHANIAL BROWN, §  
DECEASED, AND AS NEXT FRIEND §  
FOR JOHN "C.J." BROWN, A MINOR; §  
JAMES DAVISON, JR. AND DEBBIE §  
ROCKWELL, IND. AND ON BEHALF OF §  
THE ESTATE OF TESHAREME §  
DAVISON, DECEASED §

Plaintiffs, §

VS. §

INVACARE CORPORATION, PRAXAIR §  
HEALTHCARE SERVICES, INC., KIDDE §  
FYRNETICS, INC., SPIRIT HOMES, §  
INC., SPIRIT HOMES, INC., A DIVISION §  
OF CAVALIER ENTERPRISES, INC., §  
CAVALIER ENTERPRISES, INC., §  
CAVALIER HOME BUILDERS, L.L.C. §  
F/K/A CAVALIER HOMES OF §  
ALABAMA, INC. AND PATRICIA B. §  
GRIFFIN D/B/A DISCOUNT HOMES, §  
INC. §

Defendants. §

IN THE DISTRICT COURT OF

BY:   
DEPUTY

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

**DEFENDANT INVACARE CORPORATION'S ORIGINAL ANSWER**  
**TO PLAINTIFFS' ORIGINAL PETITION**

**TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, Defendant Invacare Corporation, and files its Original Answer and Special Exceptions to Plaintiffs' Original Petition, and in support thereof shows as follows:

1 Defendant Invacare Corporation (hereinafter referred to as "Defendant") denies each and every, all and singular, the allegations contained in Plaintiffs' Original Petition, and any amendments thereto, and says that same are not true, in whole or in part, but demands strict proof thereof

2 Pleading further, if necessary, this Defendant affirmatively asserts that the negligence of one or more of the adult Plaintiffs was the sole cause, a proximate cause, a contributing cause, a new and independent cause, or a subsequent intervening cause of Plaintiffs' injuries and damages, if any.

3 Pleading further, if necessary, this Defendant affirmatively asserts and pleads that Plaintiffs' injuries and damages, if any, were the result of a new and independent, intervening and/or superseding cause unrelated to any conduct of this Defendant or any product allegedly placed in the stream of commerce by this Defendant

4 Pleading further, if necessary, this Defendant asserts and pleads that its alleged conduct was not the sole cause, a proximate cause, or a contributing cause, of any injuries or damages claimed by Plaintiffs. Defendant further pleads and asserts that acts or omissions of persons or other parties, for which conduct this Defendant is not responsible and over which Defendant exercised no control or authority, were the sole proximate cause or contributing cause of the Plaintiffs' injuries and damages, if any.

5 Pleading further, if necessary, this Defendant asserts and pleads that any recovery for any injury allegedly suffered by Plaintiffs is barred, in whole or in part, or should be reduced proportionately, by Plaintiffs' contributory and/or comparative negligence, fault, and want of due care TEX. CIV. PRAC. & REM. CODE, § 33 001 *et seq*

6 Pleading further, if necessary, Plaintiffs' claims against Defendant are barred based on this Defendant's compliance with all federal and state laws, rules and regulations applicable to this Defendant's alleged products.

7 Pleading further, if necessary, if Plaintiffs should settle with any other person or party, then Defendant reserves its rights under Chapters 32 and 33 of the Texas Civil Practice and Remedies Code regarding an election of credit and reduction in the amount of damages to be recovered by the Plaintiffs

8 Pleading further, if necessary, Defendant denies any and all alleged liability on its part with regard to the claims raised by Plaintiffs in this litigation. In the unlikely event, however, that the Court or any fact finder ultimately finds any liability against this Defendant and other Defendants, then this Defendant would avail itself to the rights of contribution and indemnity against said other Defendants pursuant to § 33 011 *et seq* of TEX. CIV. PRAC. & REM. CODE and any other applicable statute or common law rule.

9 Pleading further, if necessary, the injuries and damages allegedly sustained by Plaintiffs, if any, can be attributed to several causes and accordingly should be apportioned among the various causes according to the contribution of such cause to the harm sustained



10. Pleading further, if necessary, to the extent that Plaintiffs seek pre-judgment interest from this Defendant, this Defendant asserts the limitations for pre-judgment interest set forth in the Texas Finance Code.

11 Pleading further, if necessary, Defendant invokes the provisions of Tex Civ. Prac & Rem. Code § 33.003(a) to require that the trier of fact, as to each cause of action asserted, determine the percentage of responsibility with respect to each of the following persons with respect to each Claimant and each defendant causing or contributing to cause in any way the harm for which recovery of damages is sought, whether by negligent act or omission, by any defective or unreasonably dangerous product, or for other conduct or activity that violates an applicable legal standard, or by any combination of these

11. Pleading further, if necessary, Defendant hereby gives notice that it intends to rely upon any other defense that may become available or appear during any discovery proceedings in this cause and hereby reserves its right to amend its answer to assert any such defense.

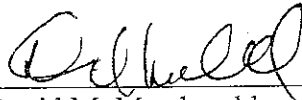
12. Defendant incorporates by reference, to the extent applicable to this Defendant, any affirmative defenses raised by the other Defendants herein

13 Defendant demands a trial by jury

WHEREFORE, PREMISES CONSIDERED, Defendant Invacare Corporation respectfully prays that upon final hearing Plaintiffs take nothing from this Defendant; that Defendant recover its costs and fees in connection with this case; and that Defendant be awarded such other and further relief, both at law and in equity, to which this Defendant may show itself to be justly entitled.

Respectfully submitted,

MACDONALD DEVIN, P.C.

By:   
David M. Macdonald  
State Bar No. 12755300  
Patrick F. Madden  
State Bar No. 00787943  
Jennifer D. LeBlanc  
State Bar No. 24002473

3800 Renaissance Tower  
1201 Elm Street  
Dallas, TX 75270  
(214) 744-3300  
(214) 747-0942 (FAX)

ATTORNEYS FOR DEFENDANT  
INVACARE CORPORATION

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was forwarded to Plaintiffs' counsel via certified mail, return receipt requested, and via regular U.S. mail to all other counsel of record on this 25 day of January, 2008.

  
David M. Macdonald

# LOCKE LORD BISSELL & LIDDELL LLP

ATTORNEYS & COUNSELORS

2200 Ross Avenue  
Suite 2200  
Dallas, TX 75201

ATLANTA • AUSTIN • CHICAGO • DALLAS • HOUSTON • LONDON  
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Phone: (214) 740-8000  
Fax: (214) 740-8800  
www.lockelord.com

Direct Number: (214) 740-8520

Direct Fax: (214) 756-8520

E-mail: mpowell@lockelord.com

BY:  
DEPUTY

January 29, 2008

Ms Sherry Griffis  
District Clerk  
Harrison County Courthouse  
200 West Houston Street, Suite 234  
Marshall, Texas 75670

Re: *Patton, et al v Invacare Corporation, et al*, No. 08-0023

Dear Ms. Griffis:

I am enclosing the original and one copy of the Original Answer of Defendant Praxair Healthcare Services, Inc., in the referenced action. Please file the original and return the copy to me in the enclosed envelope, showing the date filed.

As shown by my certificate, I have served copies on the attorneys for plaintiffs and the known attorneys for defendants.

Thank you for your attention to this matter.

Sincerely,



Michael V. Powell

cc: Known counsel of record (w/encl.)

No. 08-0023

CLARA PATTON, INDIVIDUALLY,  
AND ON BEHALF OF THE ESTATE  
OF LAURA PATTON, DECEASED;  
et al.,

Plaintiffs,

vs

INVACARE CORPORATION, et. al.,

Defendants

RODERICK KEITH GRAHAM,  
INDIVIDUALLY AND ON BEHALF  
OF THE ESTATE OF DESTINY  
GRAHAM,

Intervenor,

vs.

INVACARE CORPORATION, et al.,

Defendants.

IN THE DISTRICT COURT

7608 JAN 28 AM 10:55  
SHERRY GRIFFIN  
BY: [Signature]  
DEPUTY

HARRISON COUNTY, TEXAS

71<sup>ST</sup> JUDICIAL DISTRICT

**ORIGINAL ANSWER OF DEFENDANT  
PRAXAIR HEALTHCARE SERVICES, INC.**

TO THE HONORABLE JUDGE OF SAID COURT:

Praxair Healthcare Services, Inc. ("PHS"), named as a defendant by Plaintiffs and Intervenor in this action, files the following Original Answer to Plaintiffs' Original Petition and the Intervenor's Plea in Intervention in this action, and in support thereof would show as follows:

I.

PHS denies each and every, all and singular, the allegations of Plaintiffs' Original Petition and the Plea in Intervention, and demands strict proof thereof.

II.

In the event Plaintiffs or Intervenor seek punitive or exemplary damages from PHS, PHS pleads and avails itself of all protections of Chapter 41 of the Texas Civil Practices and Remedies Code.

III

The damages alleged in the petition and plea in intervention were not caused by the negligence or other fault of PHS or by any person or entity for whom PHS is responsible in law or fact.

IV.

The damages alleged in the petition and plea in intervention were caused by intervening acts or omissions committed by one or more persons or entities for whom PHS is not responsible in law or fact.

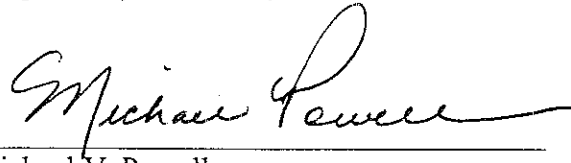
V

PHS demands determination of percentages of responsibility for all persons and entities whose responsibility may be determined under Tex Civ. Prac. & Rem. Code § 33 003, including all claimants and all persons who may be designated as responsible third parties as to any claimant's claim.

WHEREFORE, PREMISES CONSIDERED, defendant Praxair Healthcare Services, Inc., prays that Plaintiffs and Intervenor will take nothing by this action, that Plaintiffs' Original Petition and the Plea in Intervention will be dismissed, and that said defendant will recover its costs and have all other relief to which it is entitled, special and general, in law and equity.

Dated: January 28, 2008

Respectfully submitted,



Michael V. Powell

Texas Bar No. 16204400

Matthew M. Hurt

Texas Bar No. 24032450

LOCKE LORD BISSELL & LIDDELL LLP

2200 Ross Avenue, Suite 2200

Dallas, Texas 75201-6776

Telephone: (214) 740-8520

Telecopier: (214) 756-8520

ATTORNEYS FOR DEFENDANT

PRAXAIR HEALTHCARE SERVICES, INC.

**CERTIFICATE OF SERVICE**

I certify that true and correct copies of the foregoing Original Answer were mailed this date by the United States Postal Service, postage prepaid, to the following counsel of record for other parties:

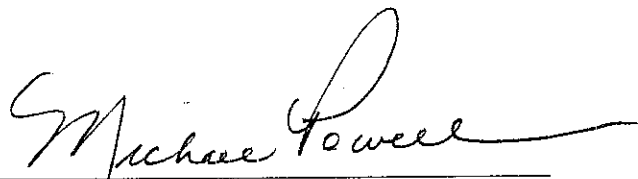
Mr. Bradley T. Steele  
1101 Judson Road  
Longview, Texas 75601

Mr. Glenn A. Perry  
Sloan, Bagley, Hatcher & Perry  
P. O. Drawer 2909  
Longview, Texas 75606-2909

Mr. Christopher L. Graham  
Lauren Graham International PLLC  
P. O. Box 3009  
Cedar Hill, Texas 75104

Mr. David Macdonald  
Macdonald, Devin  
3800 Renaissance Tower  
1201 Elm Street  
Dallas, Texas 75270

Mr. Louis M. Scofield  
MehaffyWeber  
P. O. Box 16  
Beaumont, Texas 77704-0016

  
\_\_\_\_\_  
Michael V. Powell

## CLERKS CERTIFICATE OF SERVICE

I Clerk of the District Court of Harrison County, Texas, certify that I executed the foregoing citation in Harrison County, Texas on the 8 day of Jan 2008, by placing in the US Mail a true copy of this citation, with a true copy of the aforesaid pleading attached thereto, via certified mail, Cause no 08-0023, addressed to Spirit Homes, Inc. Secretary of State and endorsed thereon "return receipt requested", after having first endorsed on said copy of said citation the date of mailing and the name and address of the within named recipient, to certify which witness my hand officially this 8 day of Jan 2008.

<b>U.S. Postal Service</b> <b>CERTIFIED MAIL</b> (Domestic Mail Only, No Inland)		<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
For delivery information, visit <a href="http://usps.com">usps.com</a>		Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <u>X</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) _____ C. Date of Delivery _____ D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below: _____	
Postage \$ _____ Certified Fee _____ Return Receipt Fee (Endorsement Required) _____ Restricted Delivery Fee (Endorsement Required) _____ Total Postage & Fees \$ _____		1. Article Addressed to: SPIRIT HOMES, INC SECRETARY OF STATE CITATIONS UNIT P. O. BOX 12079 AUSTIN, TEXAS 78711-2079 <u>08-0023</u>		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
Sent To _____ Street, Apt. No., or PO Box No _____ City, State, ZIP+4 _____		2. Article Number _____ (Transfer from service label)		7007 0220 0003 5127 5670 Domestic Return Receipt	
PS Form 3800, August 2006		PS Form 3811, August 2001		102555-02-M-1540	



CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXASPLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL  
VS.

COPY

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

## CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: KIDDE FYRNETICS, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of  
JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the  
District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you  
were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

SEAL

BY \_\_\_\_\_  
DEPUTYIssued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

## OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_ m.  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to \_\_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery  
To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Fee \$\_\_\_\_\_\_\_\_\_\_  
of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy\_\_\_\_\_  
affiantOn this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXASPLAINTIFF: CLARA PATTON, IND. AND ON BEHALF OF THE  
ESTATE OF LAURA PATTON, DECEASED, ET AL

VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

COPY

## CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: SPIRIT HOMES, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you. You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation is issued 8TH day of JANUARY, 2008, under my hand and seal of said Court.

SHERRY GRIFFIS, DISTRICT CLERK  
HARRISON COUNTY, TEXAS  
Harrison County Courthouse  
Marshall, Texas 75670

SEAL

BY \_\_\_\_\_  
DEPUTY

Issued at the request of  
BRADLEY T. STEELE  
P. O. DRAWER 2909  
LONGVIEW, TEXAS 75606

## OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Executed at \_\_\_\_\_ in \_\_\_\_\_ County at \_\_\_\_\_ o'clock \_\_\_\_ m.  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by delivering to \_\_\_\_\_  
defendant, in person, a true copy of this citation together with the accompanying copy of the petition  
attached thereto and I endorsed on said copy of the citation the date of delivery.  
To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Fee \$\_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas  
by \_\_\_\_\_ deputy

affiant

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing  
return, personally appeared. After being duly sworn, he/she stated that this citation was executed by him/her in the exact  
manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME ON \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

CAUSE NO. 08-0023

IN THE 71<sup>ST</sup> JUDICIAL DISTRICT COURT  
OF HARRISON COUNTY, TEXAS

COPY

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VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

## CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: CAVALIER ENTERPRISES, INC.  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of  
JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the  
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Harrison County Courthouse  
Marshall, Texas 75670

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\_\_\_\_\_ affiant

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VS

DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

COPY

## CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: CAVALIER HOME BUILDERS, L.L.C  
ITS REGISTERED AGENT  
C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of  
JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the  
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VS

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SERVICES, INC., ET AL

COPY

## CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: PRAXAIR HEALTHCARE SERVICES, INCORPORATED  
ITS REGISTERED AGENT  
CORPORATION SERVICE COMPANY  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TEXAS 78701

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you. You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

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DEFENDANT: INVACARE CORPORATION, PRAXAIR HEALTHCARE  
SERVICES, INC., ET AL

COPY

## CITATION

TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: SPIRIT HOMES, INC.  
THE CORPORATION COMPANY  
425 WEST CAPITAL AVENUE, SUITE 1700  
LITTLE ROCK, ARKANSAS 72201  
BY SERVING THE SECRETARY OF STATE  
CITATIONS UNIT  
P. O. BOX 12079  
AUSTIN, TEXAS 78711-2079

Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you. You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

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SERVICES, INC., ET AL**COPY****CITATION**TO: THE SHERIFF OR ANY CONSTABLE OF TEXAS  
OR ANY OTHER AUTHORIZED PERSONTHE STATE OF TEXAS  
COUNTY OF HARRISONTO: PATRICIA GRIFFIN  
D/B/A DISCOUNT HOMES  
P. O. BOX 114  
MAGNOLIA, TEXAS 77353-0114Attached is a copy of PLAINTIFFS' ORIGINAL PETITION. This instrument was filed on the 7TH day of  
JANUARY, 2008, in the above cited cause number and court. The instrument attached describes the claim against you.You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the  
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